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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

YONG JA KIM,

Plaintiff and Appellant,

v.

JOHN P. CHOMKO et al.,

Defendants and
Respondents.

B303147

(Los Angeles County
Super. Ct. No. BC630315)

APPEAL from a judgment of the Superior Court of
Los Angeles County, David L. Minning, Judge. Affirmed.
Yong Ja Kim in pro. per., for Plaintiff and Appellant.
Mary Chomko in pro. per., for Defendant and Respondent.

Plaintiff Yong Ja Kim appeals from the judgment entered following a bench trial. She contends the trial court lacked substantial evidence to support its findings. Because Kim has failed to provide any record of the evidence presented at trial, she cannot establish error. We therefore affirm.

FACTUAL AND PROCEDURAL HISTORY

We provide the following summary based on the limited record provided on appeal.¹

Kim is a former tenant in a commercial property owned by defendant and respondent Mary Chomko (Chomko) and managed by defendant Western Management Control, Inc. (WMC). In July 2013, WMC secured an unlawful detainer judgment against Kim. The court found that WMC was entitled to possession of the premises at issue, ordered the lease forfeited and the rental agreement cancelled, and ordered Kim to pay \$76,591.59 to WMC. WMC assigned its rights in the judgment to Chomko and her husband John in November 2013.

In 2016, Kim filed a complaint for damages against Chomko, John Chomko, and WMC.² The record does not include

¹Kim elected to proceed by way of a clerk's transcript only, and did not request a reporter's transcript. She also attached three exhibits to her opening brief—two documents that appear to be deposition excerpts and a letter. These documents were neither properly authenticated nor included in the record on appeal. (See *Pringle v. La Chapelle* (1999) 73 Cal.App.4th 1000, 1003, fn. 2 [reviewing court is limited to matters contained in the record].) But even if we were to consider them, they would not satisfy Kim's burden to establish error.

²Only Mary Chomko has participated in this appeal. Defendant John Chomko is deceased. He was dismissed from the complaint without prejudice prior to trial. Appellate counsel for

the complaint or otherwise indicate the precise claims Kim alleged. Kim contends she was seeking damages caused by defendants' failure to return her personal property and equipment after evicting her from her store.

The court held a bench trial in October 2019, at which Kim testified, along with several other witnesses. At the conclusion of the trial, the court found that Kim was not credible and that "Mr. Cha³ was acting as an agent for the plaintiff." On October 24, 2019, the court entered judgment in favor of defendants and against plaintiff, and awarded plaintiff nothing on her complaint.

Kim timely appealed. Both Kim and Chomko were represented by counsel below but appear in propria persona on appeal.

DISCUSSION

Kim contends the trial court's findings in favor of defendants were not supported by substantial evidence. In particular, she challenges the trial court's findings that Cha was her agent, that WMC did not interfere with her use or possession of her personal property, and that she did not sustain any damages. We conclude Kim has not met her burden to establish error.

"When the trier of fact has expressly or implicitly concluded that the party with the burden of proof failed to carry that burden and that party appeals, the substantial evidence test does not apply. Instead, 'the question for a reviewing court becomes

defendant WMC withdrew prior to briefing. WMC has not retained new counsel and did not file a respondent's brief.

³Kim contends that Kevin Cha was interested in taking over the space as a new tenant, and that as a "favor" he helped remove some of her belongings from the store.

whether the evidence compels a finding in favor of the appellant as a matter of law.” (*Petitpas v. Ford Motor Co.* (2017) 13 Cal.App.5th 261, 302–303, quoting *Shaw v. County of Santa Cruz* (2008) 170 Cal.App.4th 229, 279.) “Specifically, the question becomes whether the appellant’s evidence was (1) “uncontradicted and unimpeached” and (2) “of such a character and weight as to leave no room for a judicial determination that it was insufficient to support a finding.” [Citations.]” (*In re R.V.* (2015) 61 Cal.4th 181, 218; see also *Petitpas v. Ford Motor Co.*, *supra*, 13 Cal.App.5th at p. 303.)

The appellant has the burden to provide an adequate record on appeal to allow the reviewing court to assess the purported error. (*Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1295; *Gee v. American Realty & Construction, Inc.* (2002) 99 Cal.App.4th 1412, 1416 (*Gee*)). If the record on appeal does not contain all of the documents or other evidence submitted to the trial court, a reviewing court will “decline to find error on a silent record, and thus infer that substantial evidence” supports the trial court’s findings. (*Haywood v. Superior Court* (2000) 77 Cal.App.4th 949, 955.)

Where no reporter’s transcript has been provided and no error is apparent on the face of the existing appellate record, it is presumed that the unreported trial testimony would demonstrate the absence of error. The effect of this rule is that an appellant who attacks a judgment but supplies no reporter’s transcript will be precluded from raising an argument as to the sufficiency of the evidence. (*Estate of Fain* (1999) 75 Cal.App.4th 973, 992.)

Here, Kim has not provided a record of the trial proceedings. As such, the record is inadequate to allow meaningful review of her claims regarding errors at trial. (See

Gee, supra, 99 Cal.App.4th at p. 1416.) Because Kim has not provided evidence to support her assertions of error, we must affirm the judgment.

DISPOSITION

The judgment is affirmed. Respondent may recover her costs on appeal.

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COLLINS, J.

We concur:

MANELLA, P. J.

CURREY, J.